

Austin, Texas

SENATE JOURNAL

Forty-seventh Legislature—First Called Session

PROCEEDINGS

FIRST DAY

(Tuesday, September 9, 1941)

In obedience to the proclamation of the Honorable Coke R. Stevenson, Governor of the State of Texas, the Senate met in the Senate Chamber at the City of Austin on this the 9th day of September, 1941, at 12:00 o'clock, meridian.

The Honorable Rudolph A. Weinert, President Pro Tempore of the Senate ad interim, called the Senate to order.

Temporary Officers

The President Pro Tempore ad interim announced the appointment of the following temporary officers of the Senate:

Secretary of the Senate, Bob Barker.
Journal Clerk, Noel K. Brown.
Calendar Clerk, Martha Turner.
Doorkeeper, Joel E. Gunn.
Sergeant-at-Arms, Albert De-
glandon.
Chaplain, Rev. S. B. Culpepper.

Roll Call

The President Pro Tempore directed the Secretary to call the roll of the Senate.

The roll was called, and the following Senators were present:

Aikin	Metcalf
Beck	Moffett
Brownlee	Moore
Chadick	Ramsey
Cotten	Shivers
Fain	Smith
Graves	Stone
Hazlewood	Sulak
Isbell	Van Zandt
Lanning	Vick
Lemens	Weinert
Lovelady	Winfield
Martin	York
Mauritz	

A quorum was announced present.

The invocation was offered by Rev. S. B. Culpepper.

Proclamation by the Governor

The President Pro Tempore laid before the Senate and had read the following proclamation by the Governor:

No. 3164

PROCLAMATION BY THE GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE
PRESENTS SHALL COME:

By virtue of the authority vested in me by the Constitution and laws of this State, I, Coke R. Stevenson, Governor of the State of Texas, do hereby call an extraordinary session of the Forty-seventh Legislature to be convened in the City of Austin, Texas, at the State Capitol, commencing at twelve o'clock noon on Tuesday, the 9th day of September, A. D., 1941, for the following purpose:

To enact legislation amending Chapter 13, Acts of the Third Called Session of the Forty-second Legislature as heretofore amended, which is generally known as the State Highway Bond Servicing Law.

IN TESTIMONY WHEREOF I
have hereunto signed my
name officially and caused
the Seal of State to be im-
pressed hereon at Austin, this
the 2nd day of September,
A. D., 1941.

(Seal)

COKE R. STEVENSON,
Governor of Texas.

By the Governor:
WM. J. LAWSON,
Secretary of State.

Leaves of Absence Granted

Senator Formby was granted leave of absence for today on account of illness, on motion of Senator Winfield.

Senator Kelley was granted leave of absence for today on account of illness, on motion of Senator Stone.

Senator Hill was granted leave of absence for today on account of important business, on motion of Senator Cotten.

Senator Spears was granted leave of absence for today on account of important business, on motion of Senator Aikin.

Caucus Report

(Senate Resolution 1)

Senator Van Zandt submitted the following report:

Senate Chamber,
Austin, Texas,
September 9, 1941.

Honorable R. A. Weinert, President of the Senate, Austin, Texas.

Sir:

At a caucus held in the office of the Senate attended by 27 members of the Senate, the following recommendations were made, to-wit: The following officers were elected to serve for the ensuing First Called Session of the Forty-seventh Legislature, and at the salaries set opposite their names:

Secretary of the Senate, Bob Barker	\$10.00
Assistant Secretary, Bessie L. Pierce	6.00
Sergeant-at-Arms, A. Deglendon	6.00
Assistant Sergeant - at - Arms, Jack Russell	6.00
Doorkeeper, Joel Gunn	5.00
Assistant Doorkeeper, J. P. Pruett	5.00
Chaplain, S. B. Culpepper	5.00
Journal Clerk, Noel K. Brown	7.50
Assistant Journal Clerk, Bob Johnson	5.00
Calendar Clerk, Martha Turner	7.50
Engrossing and Enrolling Clerk, Essie McGinnis	7.50
Postmistress, Lola Lawrence	6.00
Mailing Clerk, Ann Polglass	6.00
Librarian, Theodosia Bell	5.00
Warrant Clerk, Virginia Ashabranner	5.00
Parliamentarian, to be named by President Pro Tempore	7.50

It is recommended that each Senator, the President of the Senate and the Secretary of the Senate, be permitted to name one secretary, who shall act as clerk of the committee of which the Senator naming such employee is chairman, such employees to receive \$5.00 per day, except the private secretary of the President of the Senate who shall receive \$7.50 per day.

It is further recommended that each Senator, the President of the Senate and the Secretary of the Senate be permitted to name two employees of the Senate in addition to their private secretary, and no others, that the name of such employees be referred to an assignment committee herein-after named, said committee be authorized to select from said employees all employees in the Engrossing and Enrolling Room and other departments of the Senate, said employees so named by the Senators, the President of the Senate and the Secretary of the Senate to receive \$5.00 per day.

It is further recommended that the Chairman of the Caucus be authorized to name a committee of five, which shall include the President of the Senate, and such committee shall be designated as an assignment committee for the purpose of assigning employees as herein authorized and that the committee be authorized to select sufficient additional employees at \$5.00 per day to be assigned by it when and where needed.

It is further recommended that the Sergeant-at-Arms be allowed pay for each day of service from the date he ceased to draw compensation from his other employment, and extra employees and the porters who were selected to prepare the Senate Chamber in advance of the meeting be allowed pay for their services, the per diem allowed each of the employees mentioned in this section to be the same as herein fixed.

It is further recommended that the several appointments of employees heretofore made by the President of the Senate and announced in the Senate and considered by the caucus are confirmed.

The salaries of the day and night elevator operators shall be \$4.00 per day each, and the salaries of the porters shall be \$2.50 per day each, except the head porter whose salary shall be \$4.00 per day, and the porter carrying the mail shall receive \$2.50 per day, and the salaries of the pages

shall be \$2.50 per day and the salaries of the messengers shall be \$3.00 per day.

The President of the Senate is requested to recommend that the Southwestern Telephone Company employ Miss Mary Jacobs to attend the duties of telephone operator of the Senate, and that she be paid \$5.00 per day, and a night operator be named by the assignment committee, out of the employees whose names are filed with said committee.

The President of the Senate, Senators, and the Secretary of the Senate are hereby fully authorized and empowered to use all assistants Sergeant-at-Arms and all other necessary employees for any and all services needed in and about the Senate.

It is further recommended that no employee of the Senate shall, during the time he or she is employed, furnish to any person, firm or corporation any information other than general information furnished the public pertaining to the Senate, and they shall not receive any compensation from any person, firm or corporation during their employment by the Senate, and any employee found guilty of violating this provision shall be immediately discharged.

All employees, except those responsible directly to President of the Senate, member of the Senate, Secretary of the Senate, Committee, or to the head of a department, shall report for duty at eight o'clock a. m. and one o'clock p. m. each day to the Sergeant-at-Arms, of the Senate, except part time employees who shall report at the place and time directed by the Sergeant-at-arms, and none of such employees shall be paid for the days they are absent from the Senate, unless excused by the Sergeant-at-Arms.

It is further recommended that the President of the Senate, each Senator, and the Secretary of the Senate, be allowed the stationery and postage needed by them respectively, and expenses incurred in transmitting and receiving telephone and telegraph messages and express charges as may be actually necessary in the discharge of their official duties, said expenses to be paid out of the contingent fund.

It is further recommended that the Sergeant-at-Arms rent such typewriters as may be necessary for the use of the employees of the Senate,

the contract to be approved by the assignment committee.

It is further recommended that 3000 Journals be printed; that same be prorated among the Senators and President of the Senate, except that 175 Journals shall be furnished the Members of the House.

It is further recommended that the Senate request the State Comptroller of Public Accounts to issue general revenue warrants for the pay of the members and employees of the Senate upon presentation of the payroll account signed by the Presiding Officer and the Secretary of the Senate.

It is further recommended that each Senator, the President of the Senate and the Secretary of the Senate, and Librarian be permitted to subscribe for three newspapers to be paid for out of the contingent fund.

It is further recommended that the President of the Senate have exclusive appointment of a sufficient number of custodians, messengers, pages, elevator operators, and porters as in his judgment may be necessary.

It is further recommended that the Chairman of the Finance Committee shall have authority to employ such additional employees of his own selection who shall receive compensation in accordance with the compensation paid similar positions as herein fixed, who shall discharge the duties of the Finance Committee.

It is further recommended that the private rooms allotted to the Senators by the method as adopted by the caucus be assigned to Senators and their successors unless otherwise directed by the Senate.

It is further recommended that each Senator, as quickly as possible, file with the Secretary of the Senate the name of his private secretary selected; that he also file with the Chairman of the Committee aforesaid the name of the employees selected, together with his or her postoffice address and a suggestion as to the special qualifications of said employees.

It is further recommended, that all persons heretofore employed for pre-session organization be allowed the same compensation for such service as set out in Caucus Report of the Senate of the Forty-seventh Legislature.

It is further recommended that no employees of the Senate except those

whose official duties require them to work upon the floor of the Senate shall have access to the floor unless that employee shall have been requested by a Senator, the President of the Senate, or the Secretary of the Senate, to come on the floor for some official duty, and when that duty is performed, the employee will immediately leave the floor of the Senate. The Sergeant-at-Arms is specifically ordered to see that this provision is carried out.

OLAN R. VAN ZANDT,
Dean of the Senate,
Chairman of Caucus.

CLAUDE ISBELL,
Secretary of Caucus.

On motion of Senator Van Zandt and by unanimous consent, the reading of the report was dispensed with and it was adopted as a resolution of the Senate.

Temporary Pages

The President Pro Tempore announced the appointment of the following temporary pages: Dan Collie, Dowell Smith, Roy Sanderford, Jr., Charles Brady Morris, David Hornsby Rainey, Thomas Stubbs, and Bob Fritts.

Oath of Office Administered to Officers of Senate

The officers of the Senate named in S. R. No. 1 assembled at the President's desk and took the constitutional oath, which was administered by the President Pro Tempore.

Message from the House

The Assistant Reading Clerk of the House was recognized to present the following message:

Hall of the House of Representatives,
Austin, Texas,
September 9, 1941.

Hon. R. A. Weinert, President Pro Tempore of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills and resolutions:

H. C. R. No. 2, Providing for a Joint Session of the two Houses at one o'clock p. m., Tuesday, September 9, 1941 for purpose of hearing a message from Gov. Coke R. Stevenson.

Respectfully submitted,
E. R. LINDLEY,
Chief Clerk, House of Representatives.

House Concurrent Resolution 2

The President Pro Tempore laid before the Senate and had read:

H. C. R. No. 2, Providing for a joint session at 1:00 o'clock p. m., today to hear a message of the Governor.

By unanimous consent, the resolution was considered and adopted at this time.

Senate Notified

A committee of five members of the House appeared at the bar of the Senate; and Honorable W. A. Williamson, for the committee, announced that the House is organized and ready for transaction of business.

Election of President Pro Tempore

The President Pro Tempore ad interim announced the election of President Pro Tempore of the Senate for the First Called Session of the Forty-seventh Legislature as the next business in order.

Senator Shivers nominated Honorable E. Harold Beck of Bowie County to be President Pro Tempore of the Senate for the First Called Session of the Forty-seventh Legislature.

Senator Aikin seconded the nomination of Honorable E. Harold Beck.

Senator Cotten seconded the nomination of Honorable E. Harold Beck.

Senator Metcalfe seconded the nomination of Honorable E. Harold Beck.

Senator Chadick seconded the nomination of Honorable E. Harold Beck.

Senators Hazlewood and Ramsey were appointed to take up and count the ballots.

The ballots were taken up and counted, and it was announced that Honorable E. Harold Beck had received 26 votes and had been duly elected President Pro Tempore of the Senate for the First Called Session of the Forty-seventh Legislature.

Senators Brownlee, Shivers and Winfield then escorted Honorable E. Harold Beck to the President's desk, where he took the constitutional oath of office, which was administered by Honorable R. A. Weinert, President Pro Tempore of the Senate ad interim.

Honorable R. A. Weinert then presented Honorable E. Harold Beck to the Senate.

President Pro Tempore Beck addressed the Senate briefly and thanked

the Senators for the honor conferred upon him.

Senate Resolution 2

Senator Metcalfe offered the following resolution:

Whereas, There are now present at the bar of the Senate several men who served with much distinction as members of this body and also several members of Congress; now, therefore, be it

Resolved by the Senate of Texas, That all former members of the Senate and present members of Congress now present in the Capitol be extended the privileges of the floor for today.

METCALFE,
WINFIELD.

Signed — Aikin, Beck, Brownlee, Chadick, Cotten, Fain, Formby, Graves, Hazlewood, Hill, Isbell, Kelley, Lanning, Lemens, Lovelady, Martin, Mauritz, Metcalfe, Moffett, Moore, Ramsey, Shivers, Smith, Spears, Stone, Sulak, Van Zandt, Vick, Weinert, Winfield, York.

The resolution was read.

On motion of Senator Fain, the names of all the Senators were added to the resolution as signers thereof.

The resolution was then adopted unanimously.

Committees to Notify Governor and House

The President Pro Tempore appointed the following committees to notify the Governor and the House that the Senate is organized and ready for the transaction of business:

To notify the Governor: Senators Aikin, Ramsey, Fain, Isbell and Winfield.

To notify the House: Senators Moore, Stone, Brownlee, Lemens and Smith.

Senate Bills on First Reading

The following bills were introduced, read first time and referred to the committees indicated:

By Senator Van Zandt:

S. B. No. 1, A bill to be entitled "An Act, making an appropriation for the biennium beginning September 1, 1941, and ending August 31, 1943, of monies coming into the County and Road District Highway Fund, and all monies on hand remaining therein

from the previous year to carry out the provisions of Chapter 13, General Laws of the Third Called Session of the Forty-second Legislature, as amended; and declaring an emergency."

To Committee on Finance.

By Senators Shivers, Moore, Fain, Metcalfe, Smith, Lemens, Ramsey, Hazlewood, Winfield, Stone, Brownlee, Mauritz, and Graves:

S. B. No. 2, A bill to be entitled "An Act amending Chapter 13, Acts Third Called Session of the Forty-second Legislature, as amended; declaring the policy of the State with reference to building, maintaining and financing State designated roads; defining certain terms used throughout the Act; creating the Board of County and District Road Indebtedness, and prescribing the powers, duties and obligations of said Board; allocating revenue obtained from the occupation tax on the business of selling gasoline; creating a County and Road District Highway Fund designating the money to be placed in said fund, and prescribing the manner and purposes for which such fund shall be expended; authorizing the payment out of the County and Road District Fund of certain bonds and warrants issued by the counties and defined road districts where the proceeds of such bonds and warrants were used in the construction of roads comprising the State System of Highways and in acquisition of rights-of-way for State highways; providing for refunding certain county obligations and bonds; providing for the disposition of sinking funds on county bonds issued to build State designated highways; making an appropriation of moneys coming into the County and Road District Highway Fund; providing for the transfer of certain moneys from the County and Road District Highway Fund to the State Highway Fund and making an appropriation thereof; providing for the handling of County Sinking Funds accumulated from the payment of certain road bonds and warrants; providing for the payment of certain Navigation District Bonds; making an appropriation for the administration of this Act; providing that if any Section of this Act is unconstitutional, other portions of this Act shall not be affected thereby; and declaring an emergency."

To Committee on State Affairs.

Committee to Escort Governor

Pursuant to the provisions of H.C.R. No. 2, the President Pro Tempore appointed the following committee on the part of the Senate to escort the Governor to the joint session and to the Speaker's rostrum:

Senators Shivers, York, Lanning, Van Zandt and Mauritz.

Governor Notified

The committee appointed to notify the Governor that the Senate is organized and ready for the transaction of business, appeared at the bar of the Senate; and Senator Aikin, for the committee, reported that the duty assigned it had been performed.

House Notified

The committee appointed to notify the House that the Senate is organized and ready for the transaction of business appeared at the bar of the Senate; and Senator Moore, for the committee, notified the Senate that the duty assigned it had been performed.

Addresses by Members of Congress

On motion of Senator Shivers, Honorable Nat Patton, Honorable W. R. Poage and Honorable Lindley Beckworth, members of Congress, were invited to address the Senate at this time; and they were escorted to the President's desk by Senators Shivers, Vick and Moffett.

Congressmen Patton, Poage and Beckworth were severally presented to the Senate by Senator Shivers, and each addressed the Senate briefly.

Address by Honorable Walter F. Woodul

On motion of Senator Moore, Honorable Walter F. Woodul, formerly Lieutenant Governor, was invited to address the Senate at this time.

Honorable Walter F. Woodul then addressed the Senate briefly.

Resolution Signed

The President Pro Tempore signed in the presence of the Senate the following resolution:

H. C. R. No. 2, Providing for a joint session of the Legislature at 1:00 o'clock p. m. Tuesday, September 9, 1941, to hear an address by the Governor.

Suspension of Senate Rule 106

On motion of Senator Moore and by unanimous consent, that part of Senate rule 106 relating to a 48-hours advance notice of a committee hearing on a bill was suspended, to allow a hearing on S. B. No. 2 without written notice thereof to any member of the Senate.

On motion of Senator Van Zandt and by unanimous consent, that part of Senate rule 106 which relates to a 48-hours advance notice of a committee hearing on a bill was suspended, to permit a hearing on S. B. No. 1 to be held today without the giving of any written notice thereof to any member of the Senate.

Joint Session

At 1:00 o'clock p. m., the President Pro Tempore announced that the hour fixed by H. C. R. No. 2 for a joint session of the Senate and House of Representatives to hear a message by the Governor had arrived, and he requested all Senators present to proceed in a body to the Hall of the House of Representatives.

The Senate was announced at the bar of the House, and the Senators were admitted and escorted to seats prepared for them along the aisle.

The President Pro Tempore of the Senate, by invitation of the Speaker, occupied a seat on the Speaker's rostrum.

President Pro Tempore Beck announced the purpose of the joint session and directed the Secretary to call the roll of the Senate.

The roll was called and a quorum of the Senate was announced present.

The Speaker called the House to order, and asked all members present to register.

A quorum of the House was announced present.

Honorable Coke R. Stevenson was announced at the bar of the House and was admitted and escorted to the Speaker's stand by Senators Shivers, York, Lanning, Van Zandt and Mauritz, on the part of the Senate, and by Representatives Leyendecker, Reed of Bowie, Burnaman, Cleveland and McLellan, on the part of the House.

The Speaker presented Representative B. J. Leyendecker, who in turn presented Governor Coke R. Stevenson to the joint session.

Governor Stevenson then delivered to the Legislature the following message:

September 9, 1941.

To the Members of the Forty-seventh Legislature:

The purpose for which this special session has been convened has been stated in the proclamation to be: To enact legislation amending Chapter 13, Acts of the Third Called Session of the Forty-second Legislature as heretofore amended, which is generally known as the State Highway Bond Servicing Law. Many opinions have been advanced as to the best method of accomplishing this purpose. I believe all of us are actuated by a common motive and that is to find a solution of this problem which will give the greatest benefit to the people of this State.

Among others who have expressed opinions as to how this might best be accomplished I have on numerous occasions expressed my belief; it is that the excess or surplus remaining in the County and Road District Highway Fund after servicing the eligible obligations of the various counties and defined road districts, should go to the Highway Department to be spent in financing the construction of State highways. In reaching this conclusion I have not discarded my original intention when the original bond servicing law was first passed by the Third Called Session of the Forty-second Legislature, in September, 1932. At that time I believed the most important phase of this problem was getting the people out of debt.

Most of us know it has never been the burden of State taxes which has been grievous to the taxpayers, but the real heavy load carried has been local taxes voted upon the people by themselves. Included in this category are the bonds voted to build roads which were later designated as State highways. The original plan evidenced by the enactment of Chapter 13 was to relieve the taxpayers of this burden and to pay off the debt, both principal and interest, incurred to build roads which were designated as State highways. This was then a laudable purpose and it still is. This objective is being accomplished by the expenditures necessary to service the eligible obligations. As stated, I am not discarding the principle involved in this plan of operation. In

its accomplishment, however, we have accumulated a surplus of money in our fund for this purpose. The disposition of this surplus has become one of our legislative problems.

I recognize that any lawful and moral use to which money is allocated is not a matter of principle, and involves no sacrifice of principle. It is a matter of judgment as to what can best be accomplished by the expenditure.

An individual who has accumulated any considerable fund by thrift and industry may have some difficulty in deciding on the use to be made of such fund. He might buy a farm or ranch, or invest in business, or construct a factory. It would be a matter for his determination, and whatever his decision might be, it would involve no sacrifice of principle. He might even decide to use the money in one direction and because of circumstances over which he had no control, he might change his mind and use the money in an entirely different direction. I mention this as illustrating the thought that the disposition of the surplus in the County and Road District Highway Fund is not a matter of principle; it is a matter for this Legislature to determine in its wisdom and judgment.

Recently the War Department has decided to discharge certain men in the armed forces who are over the age of twenty-eight years. It is hoped that these discharges will be made before Christmas of this year. Most of these men will be looking for work. The Director of Selective Service has requested me to appoint three hundred fifty-one men in that number of communities to assist the discharged men in returning to their former positions or making new connections. Since work should be available to each and every one of these men, I am persuaded to believe that the use of this surplus fund by the Highway Department in constructing more State highways would be a tendency in the right direction. Not only would the money thus expended provide work in the actual construction of highways, but it would provide the people of Texas with desirable road improvements.

Realizing that my own opinion concerning the disposition of the surplus in this fund is not controlling, and respecting the opinions of those who have expressed other views, I am will-

ing to recede from my position in order that all of our differences may be composed and legislation speedily enacted which will continue servicing the eligible obligations and at the same time determine the policy of the Legislature with reference to the surplus.

Recently I issued a statement urging some agreeable compromise which would permanently solve this question. In that statement no indication was given as to the form this compromise proposal should take. Later, however, I did submit to a number of those interested, a proposal to return the surplus to the Highway Department and that as long as the surplus is Two Million Dollars or less that this money be placed in a separate fund to be known as the State Farm-to-Market Road Fund and to be used by the State Highway Department in the construction and maintenance of roads which were not a part of the maintained system of State designated highways as of January 1, 1941; and that whenever the surplus should be in excess of Two Million Dollars that any sum over and above the Two Million be divided equally between the State Farm-to-Market Road Fund, and the State Highway Fund.

This proposed plan met with considerable favor, and also with some opposition. I am thoroughly convinced that the plan has merit and I firmly believe the time is not far distant when we will inaugurate a permanent farm-to-market road plan in Texas, under the supervision and direction of the State Highway Department. During the time I have advocated this plan I have also been listening carefully to the suggestions made to me by members of the Legislature.

From all of these suggestions, I have arrived at the conclusion that the plan upon which a majority of both houses will agree is that the right-of-way costs heretofore incurred by the counties and defined road districts on roads which are now a part of the maintained State system of designated highways and which are represented by legally issued bonds, warrants and other evidences of indebtedness outstanding and unpaid as of September 1, 1941, be serviced in the same manner as other eligible obligations, the proceeds of which were used in the construction of said highways, and that after such right-

of-way costs are so serviced then any surplus remaining in said fund shall be returned to the Highway Department.

This is the plan I am recommending to this session of the Legislature with the hope that it will be speedily enacted and evidence given to the people that this Legislature is capable of the speedy solution of this and all other problems of legislation which may be submitted to them.

Respectfully submitted,
COKE R. STEVENSON.

At the conclusion of the message, the Senate repaired to the Senate chamber.

In the Senate

Senator Shivers called the Senate to order at 1:35 o'clock p. m.

Adjournment

On motion of Senator Moore, the Senate, at 1:40 o'clock p. m., adjourned until 10:00 o'clock a. m. tomorrow.

SECOND DAY

(Wednesday, September 10, 1941)

The Senate met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by President Pro Tempore Beck.

The roll was called, and the following Senators were present:

Aikin	Martin
Beck	Mauritz
Brownlee	Metcalf
Chadick	Moffett
Cotten	Moore
Fain	Ramsey
Formby	Shivers
Graves	Smith
Hazlewood	Stone
Hill	Sulak
Isbell	Van Zandt
Lanning	Vick
Lemens	Winfield
Lovelady	York

A quorum was announced present.

Rev. S. B. Culpepper, Chaplain, offered the invocation.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.